



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION FOR THE
ALMOND 2 POWER PLANT PROJECT

DOCKET No. 09-AFC-2

**NOTICE OF PREHEARING CONFERENCE
AND
EVIDENTIARY HEARING**

PLEASE TAKE NOTICE that the Committee designated by the Energy Commission to conduct proceedings on the Application for Certification (AFC) for the **ALMOND 2 POWER PLANT PROJECT** has scheduled the **Prehearing Conference and Evidentiary Hearing** as follows:

The Prehearing Conference and Evidentiary Hearing will be conducted on:

***FRIDAY, October 1, 2010
Beginning at 9:00 a.m.***

**California Energy Commission
Hearing Room B
1516 Ninth Street
Sacramento, CA 95814**

The Prehearing Conference and Evidentiary Hearing will be conducted by telephone and/or by computer via our "WebEx" web conferencing system. For details on how to participate, please see the "Participation in Prehearing Conference and Evidentiary Hearing through WebEx" directions attached to this Notice.

PLEASE TAKE NOTICE that the Committee has established the following **SCHEDULE** for the filings and activities leading to the Evidentiary Hearings:

| ITEM | DATE |
|---|-------------------------------|
| Applicant Files Opening Testimony | Monday, September 20, 2010 |
| Staff Files Opening Testimony | Thursday, September 23, 2010 |
| All Parties File Prehearing Conference Statements and Exhibit and Witness/Topic Lists | Monday, September 27, 2010 |
| All Parties File Rebuttal Testimony | Wednesday, September 29, 2010 |
| Prehearing Conference and Evidentiary Hearing | Friday, October 1, 2010 |

Purpose of Prehearing Conference

The Prehearing Conference is a public forum where the Committee will assess the parties' readiness for an Evidentiary Hearing, identify areas of agreement or dispute, and discuss the remaining schedule and procedures necessary to conclude the certification process. (Cal. Code Regs., tit. 20, § 1718.5.)

At the Prehearing Conference, all parties shall present their respective positions regarding: the substantive topic areas ready for Evidentiary Hearing; those topics that require further analysis, including the nature of, and time frame for, any such analysis; the topic areas that have been resolved; and the topic areas that are disputed and require adjudication. The parties shall also identify proposed witnesses, as well as the time required for direct testimony and/or cross-examination.

Local, state, and federal governmental agencies may participate at the Prehearing Conference and Evidentiary Hearing, as necessary. (Cal. Code Regs., tit. 20, § 1714.5.) Elected officials and members of the public may present public comments at these events and/or submit written comments to the Energy Commission's Docket Unit. Please include "Docket No. 09-AFC-2" on any written comments.

Prehearing Conference Statements

Each party is **ORDERED** to serve and file a **PREHEARING CONFERENCE STATEMENT** containing all of the information described below. The parties shall e-mail their statements to the Hearing Officer, to the parties as indicated on the proof of service list, and to the Commission's Docket Unit, 1516 9th Street, MS-4, Sacramento, California 95814-5512, so as to be received **NO LATER than 4 P.M. on Monday, September 27, 2010**. The parties shall also submit a **WORD version** of their statements to the Hearing Officer via e-mail.

NOTE: FAILURE TO FILE A PREHEARING CONFERENCE STATEMENT BY THE DEADLINE MAY PRECLUDE A PARTY FROM PARTICIPATING AT THE PREHEARING CONFERENCE AND EVIDENTIARY HEARING.

Each statement shall specify:

1. The topic areas that are complete and ready to proceed to Evidentiary Hearing;
2. The topic areas that are not complete and not yet ready to proceed to Evidentiary Hearing, and the reasons therefor;
3. The topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic;
4. The identity of each witness sponsored by each party (**note:** witnesses must have professional expertise in the scope of their testimony); the topic area(s) which each witness will present; a brief summary of the testimony to be offered by each witness; qualifications of each witness; and the time required to present direct testimony by each witness;
5. Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of such cross-examination, and the time desired for such cross-examination;
6. An exhibit list identifying exhibits and declarations that each party intends to offer into evidence (**see attached sample for required format**). The Hearing Office will provide the parties with a **Word version of the Exhibit List template** ;
7. Proposals for briefing deadlines and other scheduling matters; and,
8. For all topics, the parties shall review the Proposed Conditions of Certification listed in the Supplemental Staff Assessment for enforceability, comprehension, and consistency with the evidence, and submit any proposed modifications.

Format for Providing Written Testimonial and Documentary Evidence

In addition to the witness lists and exhibit lists provided with the Prehearing Conference Statements, the parties shall also provide copies of their written testimonial and documentary evidence to the Committee and other parties **ON OR BEFORE the dates shown in the schedule above.**

NOTE: FAILURE TO EXCHANGE WRITTEN TESTIMONIAL AND DOCUMENTARY EVIDENCE BY THE DEADLINE MAY PRECLUDE A PARTY FROM PARTICIPATING AT THE EVIDENTIARY HEARING.

They shall also provide the evidence to the Committee in two formats, as follows.

Format 1. A compilation that includes each document, which shall be numbered and identified on the **Exhibit List**.

- Applicant's exhibits shall be numbered consecutively as **Exhibits 1 through 299**. **Exhibit 1** shall be the Application for Certification. (note: provide the AFC only upon request);
- Staff's exhibits shall be numbered consecutively as **Exhibits 300 through 399**. **Exhibit 300** shall be the Staff Assessment.

Format 2. To facilitate the Committee's efficient organization and review of the exhibits, printed copies of **each party's** exhibits for each topic area shall **also** be compiled in separate file folders **designated by topic** with the appropriate Exhibit Number attached to each document.

Both compilations shall include all opening and rebuttal testimony filed by Applicant and Staff and shall be provided to the Hearing Officer. The compilations are to be submitted to the Hearing Officer by no later than **Friday, October 1, 2010**.

Printed copies of each party's exhibits, including intervenors' exhibits, organized as described under **Format No. 1**, above, shall be submitted to all other parties, including intervenors, on or before the dates shown in the schedule above. In lieu of printed copies, exhibits may be provided to the parties in electronic form on CD or DVD.

Presenting Evidence and Argument Regarding Public Convenience and Necessity

Under Public Resources Code section 25525, the Commission may certify an application for certification even if it finds that that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws or has unmitigable significant environmental impacts. To do so, the Committee must determine that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. Parties' opening briefs and presentation of evidence should address the application of Public Resources Code section 25525.

Notice of Committee's Intention to Use Informal Hearing Procedures

Pursuant to Government Code section 11445.10 et seq. and section 1217 of the Commission's regulations, the Committee may conduct all or portions of the Evidentiary Hearings in an informal manner in which, for example but not by way of limitation, a panel of witnesses sponsored by a single party or by multiple parties testify at one time, with an exchange of questions and responses between the witnesses and counsel for the various parties substituting for formal direct and cross-examination. Any objections to the taking of testimony in an informal manner shall be filed on or before the deadline for filing Prehearing Conference Statements (**4 p.m. on September 27, 2010**). The Parties are encouraged to comment on the appropriate format for informal hearings and

identify the topics for which informal hearings are appropriate, in their Prehearing Conference Statements, above.

Notice of Committees' Intention to Take Official Notice of Documents

Pursuant to section 1213 of the Commission's regulations, the Committee intends to take Official Notice of the report issued by the Commission's Siting Committee entitled:

COMMITTEE GUIDANCE ON FULFILLING CALIFORNIA ENVIRONMENTAL QUALITY ACT RESPONSIBILITIES FOR GREENHOUSE GAS IMPACTS IN POWER PLANT SITING APPLICATIONS.

The report was issued in March 2009 and is found on the Commission website at: <http://www.energy.ca.gov/2009publications/CEC-700-2009-004/CEC-700-2009-004.PDF>

Petitions to Intervene to Become a Formal Party

The Energy Commission's Decision on the Almond 2 Power Plant Project will be based on the official evidentiary record developed at the Evidentiary Hearing. Only formal parties (Applicant and Staff) may present evidence and cross-examine witnesses at the Evidentiary Hearing.

Anyone with an appropriate interest in this project may file a Petition to Intervene and become a formal party. At the Evidentiary Hearing, a formal party may offer testimony and documentary evidence, receive documents filed by other parties, and cross-examine witnesses. However, a formal party must also comply with Committee orders, procedures, and filing requirements, and is subject to discovery and having its own witnesses cross-examined by other parties.

The deadline to file a Petition to Intervene in this case **was** Wednesday, September 1, 2010. Time extensions will be granted for new Intervenor to review case materials only upon a showing of good cause.

How to Intervene

The Energy Commission's Public Adviser's office will assist any person or organization interested in preparing a Petition to Intervene. For assistance in this process, contact the Public Adviser's office at (916) 654-4489 or (800) 822-6228 or e-mail: **[publicadviser@energy.state.ca.us]**.

Public Participation

Members of the public are welcome to attend and offer comments at the Prehearing Conference and the Evidentiary Hearing. It is not necessary to be an Intervenor to participate in the public process. Anyone desiring information on how to participate may contact the Public Adviser's office as indicated above.

Comments made after the Evidentiary Hearings may be discussed in the Presiding Member's Proposed Decision (PMPD) or treated and discussed as comments on the PMPD, at the Committee's discretion. Comments made to BLM or the Energy Commission will be shared with the other agency.

The Energy Commission Public Adviser's Office is available to assist the public in participating in the application review process. For those individuals who require general information on how to participate, please contact the Public Adviser's Office at (916) 654-4489 or (800) 822-6228 or e-mail: **[publicadviser@energy.state.ca.us]**.

If you have a disability and need assistance to participate in this event, contact Lourdes Quiroz at (916) 654-5146 or e-mail: **[lquiroz@energy.state.ca.us]**.

Energy Commission Information

Questions of a legal or procedural nature should be directed to Kourtney Vaccaro, the Hearing Officer, at (916) 654-4328 or e-mail: **[kvaccaro@energy.state.ca.us]**.

Technical questions concerning the Project should be addressed to Felicia Miller, the Staff Project Manager, at (916) 654-4640, or by e-mail: **[fmiller@energy.state.ca.us]**.


Media inquiries should be directed to the office for Media and Public Communications at 916-654-4989 or e-mail: **[mediaoffice@energy.state.ca.us]**.

Information concerning the status of the Project, as well as notices and other relevant documents, may be viewed on the Energy Commission's website at:
[www.energy.ca.gov/sitingcases/almond/index.html]

Dated September 8, 2010, at Sacramento, California.



KAREN DOUGLAS
Chairman and Presiding Member
Almond 2 AFC Committee



ANTHONY EGGERT
Committee and Associate Member
Almond 2 AFC Committee

Mail to List: POS, 7351, 7352, 7353, 7354

PARTICIPATION IN THE
PREHEARING CONFERENCE AND EVIDENTIARY HEARING
THROUGH WEBEX
THE ENERGY COMMISSION'S ON-LINE MEETING SERVICE

1. COMPUTER LOG-ON WITH A DIRECT PHONE NUMBER:

- Please go to <https://energy.webex.com> and enter the MEETING NUMBER specific to the Prehearing Conference and Evidentiary Hearing date:
 - 10/1/10 – Prehearing Conference and Evidentiary Hearing **MEETING NUMBER: 928 485 286**
 - When prompted, enter your information and the: MEETING PASSWORD: almond@9am

After you login, a prompt will appear on-screen for you to provide **your** phone number. In the **Number box**, type your area code and phone number and click OK. **You will receive a call back on your phone for the audio portion of the meeting.** International callers can use the "Country/Region" button to help make their connection.

2. COMPUTER LOG-ON FOR CALLERS WITH AN EXTENSION PHONE NUMBER, ETC:

- Please go to <https://energy.webex.com> and enter the meeting number and the meeting password (above).
- After you login, a prompt will ask for your phone number. Click "CANCEL."
- Instead call 1-866-469-3239 (toll-free in the U.S. and Canada). When prompted, enter the meeting number above and your unique Attendee ID number which is listed in the top left area of your computer screen after you login.

3. TELEPHONE ONLY (NO COMPUTER ACCESS):

- Call 1-866-469-3239 (toll-free in the U.S. and Canada) and when prompted enter the meeting number unique to the specific hearing date:
 - 10/1/10 – Prehearing Conference and Evidentiary Hearing **MEETING NUMBER: 928 485 286**

If you have difficulty joining the meeting, please call the WebEx Technical Support number at 1-866-229-3239. To see if your computer is compatible, visit [\[http://support.webex.com/support/system-requirements.html\]](http://support.webex.com/support/system-requirements.html).

Please be aware that the meeting's WebEx audio and on-screen activity may be recorded.



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Docket Number: 09-AFC-2

Date: _____

Project Name: Application for Certification for the Almond 2 Power Plant Project

SAMPLE TENTATIVE EXHIBIT LIST

NOTE: The format of the samples provided below is equally applicable to all parties. However, given the likely differences in the documentary evidence submitted by the parties, the samples illustrate how to address specific types of evidence that might be unique to each party.

| Exhibit | Brief Description | Stipulation | Offered | Admitted | Refused | CEC Use Only |
|-----------------------------|---|-------------|---------|----------|---------|--------------|
| Applicant's Exhibits | | | | | | |
| 1 | ABC Power Plant Project Application for Certification (AFC); dated [month, day, year], and docketed on [month, day, year]. (a) Executive Summary (b) Project Description (c) Air Quality (d) Biological Resources (e) Cultural Resources (f) Hazardous Materials Management (g) Land Use (h) Noise and Vibration (i) Public Health (j) Socioeconomics (k) Soil and Water Resources (l) Traffic and Transportation (m) Transmission Line Safety and Nuisance (n) Visual Resources (o) Waste Management | | | | | |

| | | | | | | |
|----------|--|--|--|--|--|--|
| | Applicant's Exhibits Continued (p) Worker Safety and Fire Protection (q) Facility Design (r) Geology and Paleontology (s) Power Plant Efficiency (t) Power Plant Reliability (u) Transmission System Engineering (v) Alternatives | | | | | |
| 2 | ABC , LLC's Objection to California Energy Commission Staff Data Requests (Set 1); dated [month, day, year], and docketed on [month, day, year]. (a) Objections to Data Request 16 (b) Objections to Data Request 53 (c) Objections to Data Requests 66, 67, and 68 | | | | | |
| 3 | ABC , LLC's, Response to California Energy Commission Data Requests 1-74; [month, day, year], and docketed on [month, day, year]. (a) Responses 1-6; Exhibit 2-1 (b) Responses 7-10; Exhibits 7-1, 7-2, 7-3, 10-1 (c) Responses 11-20; Exhibits 17-1, 17-2 (d) Response 21 (e) Responses 22-23; Exhibits 22-1, 23-1 (f) Responses 24-53; Exhibits 25-1, 35-1, 38-1, 48-1, 48-2 (g) Responses 54-58; Exhibit 58-1 (h) Responses 59-68; Exhibit 61-1 (i) Responses 69-74 | | | | | |
| 4 | Declaration of John Doe regarding Project Description; dated [month, day, year] and docketed. (month, day, year). | | | | | |

| Energy Commission Staff's Exhibits | | | | | | |
|------------------------------------|---|--|--|--|--|--|
| | | | | | | |
| 300 | Final Staff Assessment for the ABC Power Plant Project, dated [month, day, year], and docketed [month, day, year]. | | | | | |
| 301 | Energy Commission Staff's Errata to the Final Staff Assessment, dated [month, day, year] and docketed [month, day, year]. | | | | | |
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